

Matthew B. Lehr (Bar No. 213139)
 Diem-Suong T. Nguyen (Bar No. 237557)
 David J. Lisson (Bar No. 250994)
 Chung G. Suh (Bar No. 244889)
 Jeremy Brodsky (Bar No. 257674)
 DAVIS POLK & WARDWELL LLP
 1600 El Camino Real
 Menlo Park, California 94025
 Telephone: (650) 752-2000
 Facsimile: (650) 752-2111

Attorneys for Plaintiff Tyco Healthcare Group
 LP d/b/a VNUS Medical Technologies

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

TYCO HEALTHCARE GROUP LP d/b/a
 VNUS MEDICAL TECHNOLOGIES,

 Plaintiff,

 v.
 BIOLITEC, INC., and NEW STAR LASERS,
 INC. d/b/a COOLTOUCH, INC.,

 Defendants.

LEAD CASE NO. C08-03129 MMC
 CASE NO. C08-03129 MMC

**CIVIL L.R. 7-12 STIPULATION AND
~~[PROPOSED]~~ ORDER REGARDING
 AMENDMENT OF INFRINGEMENT
 CONTENTIONS**

TYCO HEALTHCARE GROUP LP d/b/a
 VNUS MEDICAL TECHNOLOGIES,

 Plaintiff,

 v.
 TOTAL VEIN SOLUTIONS, LLC d/b/a
 TOTAL VEIN SYSTEMS,

 Defendant.

CASE NO. C08-04234 MMC
 (consolidated with C08-03129 MMC)

WHEREAS Plaintiff Tyco Healthcare Group LP d/b/a VNUS Medical Technologies (“VNUS”) served its Infringement Contentions pursuant to Patent L.R. 3-1 on February 12, 2009—before substantial discovery in the above-captioned litigation had taken place and before certain of the Defendants’ accused products were commercialized;

WHEREAS despite diligent discovery efforts, VNUS was not aware of certain accused products of Defendants New Star Lasers, Inc. d/b/a CoolTouch, Inc. (“CoolTouch”) and Total Vein Solutions, LLC d/b/a Total Vein Systems (“TVS”) at the time its Infringement Contentions were due;

WHEREAS Patent Local Rule 3-6 permits parties to amend Infringement Contentions by Order of the Court;

WHEREAS VNUS provided Defendants with a [Proposed] Amendment to VNUS’s Infringement Contentions, attached hereto as Exhibit 1;

WHEREAS each of the accused products identified in the proposed amendment were disclosed in interrogatory responses of CoolTouch and TVS, as well as in the report of VNUS’s damages expert Julie L. Davis, after the service of VNUS’s Infringement Contentions;

WHEREAS the proposed amendment would not affect the schedule of the case; and

WHEREAS CoolTouch and TVS do not object to the proposed amendment;

NOW, THEREFORE, VNUS requests, and CoolTouch and TVS do not oppose, that the Court grant leave for VNUS to amend its Infringement Contentions to include the accused products identified in Exhibit 1.

//

//

//

//

//

//

//

//

1 Dated: August 26, 2010

DAVIS POLK & WARDWELL LLP

2
3 /s/ Chung G. Suh

4 Matthew B. Lehr (Bar No. 213139)
5 Suong T. Nguyen (Bar No. 237557)
6 David J. Lisson (Bar No. 250994)
7 Chung G. Suh (Bar No. 244889)
8 Jeremy Brodsky (Bar No. 257674)
9 1600 El Camino Real
10 Menlo Park, CA 94025
11 Tel: (650) 752-2000
12 Fax: (650) 752-2111
13 matthew.lehr@davispolk.com
14 suong.nguyen@davispolk.com
15 david.lisson@davispolk.com

16 Attorneys for Plaintiff
17 Tyco Healthcare Group LP d/b/a
18 VNUS Medical Technologies

13 Dated: August 26, 2010

ORRICK, HERRINGTON & SUTCLIFFE LLP

14 /s/ Allan W. Jansen

15 James W. Geriak (Bar No. 32871)
16 Allan W. Jansen (Bar No. 81992)
17 4 Park Plaza, Suite 1600
18 Irvine, CA 92614-2558
19 Tel: (949) 567-6700
20 Fax: (949) 567-6710
21 jgeriak@orrick.com
22 ajansen@orrick.com

23 Attorneys for Defendant
24 New Star Lasers, Inc. d/b/a CoolTouch, Inc.

22 Dated: August 26, 2010

BUCHE & ASSOCIATES, P.C.

23 /s/ John Karl Buche

24 John Karl Buche (Bar No. 239477)
25 Sean M. Sullivan (Bar No. 254372)
26 875 Prospect, Suite 305
27 La Jolla, CA 92037
28 Tel: (858) 812-2840
Fax: (858) 459-9120
jbuche@westerniplaw.com

sean@westerniplaw.com

Attorneys for Defendant
Total Vein Solutions, LLC d/b/a Total Vein
Systems

I hereby attest that I have on file written (or e-mail) permission to sign this stipulation from all parties whose signatures are indicated by a “confirmed” signature (/s/) within this e-filed document.

Dated: August 26, 2010

/s/ Chung G. Suh

Chung G. Suh

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 30, 2010


HON. MAXINE M. CHESNEY, U.S.D.J.